

BEFORE THE TENNESSEE REGULATORY AUTHORITY
AT NASHVILLE, TENNESSEE

CONSUMER ADVOCATE DIVISION)

vs.)

BELLSOUTH TELECOMMUNICATIONS,)
INC.)

RECEIVED
EXEC. SECRETARY OFF.

JUN 04 1999

Docket No. 99-00246

TN REGULATORY AUTHORITY

MOTION TO GIVE PUBLICITY TO BELLSOUTH SPECIAL CONTRACTS IN THE PUBLIC
INTEREST AND TO AMEND THE CONSUMER ADVOCATE DIVISION'S COMPLAINT
TO INCORPORATE SAID SPECIAL CONTRACTS

Comes the Consumer Advocate Division and moves to give publicity to Bellsouth special contracts in the public interest and to amend the consumer advocate division's complaint to incorporate said special contracts. For cause, the Consumer Advocate Division (CAD) would show:

1. That CAD filed a complaint alleging that BellSouth was using special contracts, directly or indirectly, to discriminate against other similarly situated customers, communities and localities it does not prefer by failing or refusing to charge the similarly situated customers, communities and localities the same discounted or rebated rates, even though the customers, communities and locations purchase the same services provided in the secret, special contracts in violation of Tenn. Code Ann. §§ 65-4-122 and 65-5-204.
2. That CAD made additional allegations in its complaint and therefore incorporates its complaint herein by reference.
3. That it appears that the secret, special contracts appear to be filed as confidential information pursuant to Tenn. Code Ann. § 65-3-109 and that the Consumer Advocate

Division agreed not to divulge pertinent data from the contracts as if said contracts were confidential in accordance with said statute.

4. That after CAD filed its complaint and alleged that secret, special contracts existed which contain discriminatory and preferential terms, BellSouth filed a motion to dismiss alleging that the complaint should be dismissed because it does not disclose “who or what,” and additional facts from the contracts.
5. That BellSouth further alleges that its contracts are not secret, but are proprietary and not publicized.
6. BellSouth further alleges that CAD’s complaint does not provide sufficient specificity and facts.
7. That CAD respectfully submits and American Trucking Associations v. Federal Communications Commission, 377 F.2d 121, 131 (D.C. Cir. 1966) holds that “Equal prices for like services is in itself a matter of public interest.”
8. That the public interest is served by disclosing the prices and devices used in each special contract for that particular consumer and assuring that BellSouth charges consumers, communities and localities equally for services and further that CAD and the public interest is prejudiced by an inability to publicize the details of the special contracts and how the contracts differ by customers, communities, and localities for the same services.
9. That CAD and the public interest is prejudiced by an inability to publicize the details of the special contracts and how the rebates and devices differ by customers, communities, and localities for the same services.

10. That the Court in Ad Hoc Telecommunications Users Committee v. Federal Communications Commission, 680 F.2d 790, 807 (D.C. Cir 1982) stated in pertinent part with regard to language similar to our statute that:

These words necessarily involve the idea or element of comparison of one service or traffic with another similarly situated and circumstanced, and require that, to be undue and unreasonable, the preference or prejudice must relate and have reference to competing parties, producing between them unfairness and an unjust inequality in the rates charged them respectively for contemporaneous service under substantially the same circumstances and conditions. In determining the question whether rates give an undue preference or impose an undue prejudice or disadvantage, consideration must be had to the relation which the persons or traffic affected bear to each other and to the carrier.

11. That publicity is necessary so that consideration may be had to the relation which the consumers, communities, localities and traffic affected bear to each other and to the carrier in determining whether the rates give an undue preference or impose an undue prejudice or unjust discrimination.
12. That the Consumer Advocate Division attached a list of special contracts as exhibit A to its complaint which it hereby incorporates by reference, and further that the Consumer Advocate Division complained that the case should be extended to all BellSouth special contracts.
13. That the evidence will show that BellSouth intended to implement “strategic partnerships” with the consumers identified in the secret special contracts to the exclusion of other consumers in the same locality and different localities and communities although consumers in other localities.
14. That the evidence will show that BellSouth intended to limit those who benefitted from

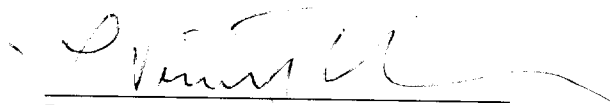
the lower discounted rates.

Wherefore the Consumer Advocate Division prays that the Tennessee Regulatory Authority find that equal prices for like services is in itself a matter of public interest.

The Consumer Advocate Division further prays that the Tennessee Regulatory Authority find that publicity is necessary so that consideration may be had to the relation which the consumers, communities, localities and traffic affected bear to each other and to the carrier in determining whether the rates give an undue preference or impose an undue prejudice or unjust discrimination.

The Consumer Advocate Division further prays that the Tennessee Regulatory Authority permit CAD to amend its complaint to incorporate all information from the special contracts identified in exhibit A to the complaint and all other BellSouth special contracts and for other relief as is just.

Respectfully Submitted,

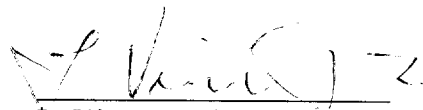


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Certificate of Service

I hereby certify that a true and correct copy of the foregoing Document has been mailed postage prepaid to the parties listed below this 4th day of June, 1999.

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